

107TH CONGRESS
2D SESSION

S. 434

AMENDMENTS

In the House of Representatives, U. S.,

October 1, 2002.

Resolved, That the bill from the Senate (S. 434) entitled
“An Act to provide equitable compensation to the Yankton
Sioux Tribe of South Dakota and the Santee Sioux Tribe of
Nebraska for the loss of value of certain lands”, do pass with
the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

1 ***TITLE I—YANKTON SIOUX AND***
2 ***SANTEE SIOUX TRIBES EQUI-***
3 ***TABLE COMPENSATION***

4 ***SEC. 101. SHORT TITLE.***

5 *This title may be cited as the “Yankton Sioux Tribe*
6 *and Santee Sioux Tribe Equitable Compensation Act”.*

7 ***SEC. 102. FINDINGS.***

8 *Congress finds that—*

9 *(1) by enacting the Act of December 22, 1944,*
10 *commonly known as the “Flood Control Act of 1944”*
11 *(58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.)*
12 *Congress approved the Pick-Sloan Missouri River*

1 *Basin program (referred to in this section as the*
 2 *“Pick-Sloan program”)—*

3 *(A) to promote the general economic devel-*
 4 *opment of the United States;*

5 *(B) to provide for irrigation above Sioux*
 6 *City, Iowa;*

7 *(C) to protect urban and rural areas from*
 8 *devastating floods of the Missouri River; and*

9 *(D) for other purposes;*

10 *(2) the waters impounded for the Fort Randall*
 11 *and Gavins Point projects of the Pick-Sloan program*
 12 *have inundated the fertile, wooded bottom lands along*
 13 *the Missouri River that constituted the most produc-*
 14 *tive agricultural and pastoral lands of, and the home-*
 15 *land of, the members of the Yankton Sioux Tribe and*
 16 *the Santee Sioux Tribe;*

17 *(3) the Fort Randall project (including the Fort*
 18 *Randall Dam and Reservoir) overlies the western*
 19 *boundary of the Yankton Sioux Tribe Indian Reserva-*
 20 *tion;*

21 *(4) the Gavins Point project (including the Gav-*
 22 *ins Point Dam and Reservoir) overlies the eastern*
 23 *boundary of the Santee Sioux Tribe;*

24 *(5) although the Fort Randall and Gavins Point*
 25 *projects are major components of the Pick-Sloan pro-*

1 *gram, and contribute to the economy of the United*
2 *States by generating a substantial amount of hydro-*
3 *power and impounding a substantial quantity of*
4 *water, the reservations of the Yankton Sioux Tribe*
5 *and the Santee Sioux Tribe remain undeveloped;*

6 *(6) the United States Army Corps of Engineers*
7 *took the Indian lands used for the Fort Randall and*
8 *Gavins Point projects by condemnation proceedings;*

9 *(7) the Federal Government did not give the*
10 *Yankton Sioux Tribe and the Santee Sioux Tribe an*
11 *opportunity to receive compensation for direct dam-*
12 *ages from the Pick-Sloan program, even though the*
13 *Federal Government gave 5 Indian reservations up-*
14 *stream from the reservations of those Indian tribes*
15 *such an opportunity;*

16 *(8) the Yankton Sioux Tribe and the Santee*
17 *Sioux Tribe did not receive just compensation for the*
18 *taking of productive agricultural Indian lands*
19 *through the condemnation referred to in paragraph*
20 *(6);*

21 *(9) the settlement agreement that the United*
22 *States entered into with the Yankton Sioux Tribe and*
23 *the Santee Sioux Tribe to provide compensation for*
24 *the taking by condemnation referred to in paragraph*
25 *(6) did not take into account the increase in property*

1 *values over the years between the date of taking and*
 2 *the date of settlement; and*

3 *(10) in addition to the financial compensation*
 4 *provided under the settlement agreements referred to*
 5 *in paragraph (9)—*

6 *(A) the Yankton Sioux Tribe should receive*
 7 *an aggregate amount equal to \$23,023,743 for*
 8 *the loss value of 2,851.40 acres of Indian land*
 9 *taken for the Fort Randall Dam and Reservoir*
 10 *of the Pick-Sloan program; and*

11 *(B) the Santee Sioux Tribe should receive*
 12 *an aggregate amount equal to \$4,789,010 for the*
 13 *loss value of 593.10 acres of Indian land located*
 14 *near the Santee village.*

15 **SEC. 103. DEFINITIONS.**

16 *In this title:*

17 *(1) INDIAN TRIBE.—The term “Indian tribe” has*
 18 *the meaning given that term in section 4(e) of the In-*
 19 *Indian Self-Determination and Education Assistance*
 20 *Act (25 U.S.C. 450b(e)).*

21 *(2) SANTEE SIOUX TRIBE.—The term “Santee*
 22 *Sioux Tribe” means the Santee Sioux Tribe of Ne-*
 23 *braska.*

1 (3) *YANKTON SIOUX TRIBE*.—*The term “Yankton*
 2 *Sioux Tribe” means the Yankton Sioux Tribe of*
 3 *South Dakota.*

4 **SEC. 104. YANKTON SIOUX TRIBE DEVELOPMENT TRUST**
 5 **FUND.**

6 (a) *ESTABLISHMENT*.—*There is established in the*
 7 *Treasury of the United States a fund to be known as the*
 8 *“Yankton Sioux Tribe Development Trust Fund” (referred*
 9 *to in this section as the “Fund”). The Fund shall consist*
 10 *of any amounts deposited in the Fund under this title.*

11 (b) *FUNDING*.—*On the first day of the 11th fiscal year*
 12 *that begins after the date of enactment of this Act, the Sec-*
 13 *retary of the Treasury shall, from the General Fund of the*
 14 *Treasury, deposit into the Fund established under sub-*
 15 *section (a)—*

16 (1) *\$23,023,743; and*

17 (2) *an additional amount that equals the*
 18 *amount of interest that would have accrued on the*
 19 *amount described in paragraph (1) if such amount*
 20 *had been invested in interest-bearing obligations of*
 21 *the United States, or in obligations guaranteed as to*
 22 *both principal and interest by the United States, on*
 23 *the first day of the first fiscal year that begins after*
 24 *the date of enactment of this Act and compounded an-*
 25 *nually thereafter.*

1 (c) *INVESTMENT OF TRUST FUND.*—It shall be the
 2 duty of the Secretary of the Treasury to invest such portion
 3 of the Fund as is not, in the Secretary of Treasury’s judg-
 4 ment, required to meet current withdrawals. Such invest-
 5 ments may be made only in interest-bearing obligations of
 6 the United States or in obligations guaranteed as to both
 7 principal and interest by the United States. The Secretary
 8 of the Treasury shall deposit interest resulting from such
 9 investments into the Fund.

10 (d) *PAYMENT OF INTEREST TO TRIBE.*—

11 (1) *WITHDRAWAL OF INTEREST.*—Beginning on
 12 the first day of the 11th fiscal year after the date of
 13 enactment of this Act and, on the first day of each
 14 fiscal year thereafter, the Secretary of the Treasury
 15 shall withdraw the aggregate amount of interest de-
 16 posited into the Fund for that fiscal year and transfer
 17 that amount to the Secretary of the Interior for use
 18 in accordance with paragraph (2). Each amount so
 19 transferred shall be available without fiscal year limi-
 20 tation.

21 (2) *PAYMENTS TO YANKTON SIOUX TRIBE.*—

22 (A) *IN GENERAL.*—The Secretary of the In-
 23 terior shall use the amounts transferred under
 24 paragraph (1) only for the purpose of making
 25 payments to the Yankton Sioux Tribe, as such

1 *payments are requested by that Indian tribe*
 2 *pursuant to tribal resolution.*

3 *(B) LIMITATION.—Payments may be made*
 4 *by the Secretary of the Interior under subpara-*
 5 *graph (A) only after the Yankton Sioux Tribe*
 6 *has adopted a tribal plan under section 106.*

7 *(C) USE OF PAYMENTS BY YANKTON SIOUX*
 8 *TRIBE.—The Yankton Sioux Tribe shall use the*
 9 *payments made under subparagraph (A) only*
 10 *for carrying out projects and programs under the*
 11 *tribal plan prepared under section 106.*

12 *(e) TRANSFERS AND WITHDRAWALS.—Except as pro-*
 13 *vided in subsections (c) and (d)(1), the Secretary of the*
 14 *Treasury may not transfer or withdraw any amount depos-*
 15 *ited under subsection (b).*

16 **SEC. 105. SANTEE SIOUX TRIBE DEVELOPMENT TRUST**
 17 **FUND.**

18 *(a) ESTABLISHMENT.—There is established in the*
 19 *Treasury of the United States a fund to be known as the*
 20 *“Santee Sioux Tribe Development Trust Fund” (referred to*
 21 *in this section as the “Fund”). The Fund shall consist of*
 22 *any amounts deposited in the Fund under this title.*

23 *(b) FUNDING.—On the first day of the 11th fiscal year*
 24 *that begins after the date of enactment of this Act, the Sec-*
 25 *retary of the Treasury shall, from the General Fund of the*

1 *Treasury, deposit into the Fund established under sub-*
 2 *section (a)—*

3 (1) \$4,789,010; and

4 (2) *an additional amount that equals the*
 5 *amount of interest that would have accrued on the*
 6 *amount described in paragraph (1) if such amount*
 7 *had been invested in interest-bearing obligations of*
 8 *the United States, or in obligations guaranteed as to*
 9 *both principal and interest by the United States, on*
 10 *the first day of the first fiscal year that begins after*
 11 *the date of enactment of this Act and compounded an-*
 12 *nually thereafter.*

13 (c) *INVESTMENT OF TRUST FUND.—It shall be the*
 14 *duty of the Secretary of the Treasury to invest such portion*
 15 *of the Fund as is not, in the Secretary of Treasury’s judg-*
 16 *ment, required to meet current withdrawals. Such invest-*
 17 *ments may be made only in interest-bearing obligations of*
 18 *the United States or in obligations guaranteed as to both*
 19 *principal and interest by the United States. The Secretary*
 20 *of the Treasury shall deposit interest resulting from such*
 21 *investments into the Fund.*

22 (d) *PAYMENT OF INTEREST TO TRIBE.—*

23 (1) *WITHDRAWAL OF INTEREST.—Beginning on*
 24 *the first day of the 11th fiscal year after the date of*
 25 *enactment of this Act and, on the first day of each*

1 *fiscal year thereafter, the Secretary of the Treasury*
 2 *shall withdraw the aggregate amount of interest de-*
 3 *posited into the Fund for that fiscal year and transfer*
 4 *that amount to the Secretary of the Interior for use*
 5 *in accordance with paragraph (2). Each amount so*
 6 *transferred shall be available without fiscal year limi-*
 7 *tation.*

8 *(2) PAYMENTS TO SANTEE SIOUX TRIBE.—*

9 *(A) IN GENERAL.—The Secretary of the In-*
 10 *terior shall use the amounts transferred under*
 11 *paragraph (1) only for the purpose of making*
 12 *payments to the Santee Sioux Tribe, as such*
 13 *payments are requested by that Indian tribe*
 14 *pursuant to tribal resolution.*

15 *(B) LIMITATION.—Payments may be made*
 16 *by the Secretary of the Interior under subpara-*
 17 *graph (A) only after the Santee Sioux Tribe has*
 18 *adopted a tribal plan under section 106.*

19 *(C) USE OF PAYMENTS BY SANTEE SIOUX*
 20 *TRIBE.—The Santee Sioux Tribe shall use the*
 21 *payments made under subparagraph (A) only*
 22 *for carrying out projects and programs under the*
 23 *tribal plan prepared under section 106.*

24 *(e) TRANSFERS AND WITHDRAWALS.—Except as pro-*
 25 *vided in subsections (c) and (d)(1), the Secretary of the*

1 *Treasury may not transfer or withdraw any amount depos-*
 2 *ited under subsection (b).*

3 **SEC. 106. TRIBAL PLANS.**

4 (a) *IN GENERAL.*—Not later than 24 months after the
 5 date of enactment of this Act, the tribal council of each of
 6 the Yankton Sioux and Santee Sioux Tribes shall prepare
 7 a plan for the use of the payments to the tribe under section
 8 104(d) or 105(d) (referred to in this subsection as a “tribal
 9 plan”).

10 (b) *CONTENTS OF TRIBAL PLAN.*—Each tribal plan
 11 shall provide for the manner in which the tribe covered
 12 under the tribal plan shall expend payments to the tribe
 13 under section 104(d) or 105(d) to promote—

14 (1) *economic development;*

15 (2) *infrastructure development;*

16 (3) *the educational, health, recreational, and so-*
 17 *cial welfare objectives of the tribe and its members; or*

18 (4) *any combination of the activities described in*
 19 *paragraphs (1), (2), and (3).*

20 (c) *TRIBAL PLAN REVIEW AND REVISION.*—

21 (1) *IN GENERAL.*—Each tribal council referred to
 22 in subsection (a) shall make available for review and
 23 comment by the members of the tribe a copy of the
 24 tribal plan for the Indian tribe before the tribal plan

1 *becomes final, in accordance with procedures estab-*
2 *lished by the tribal council.*

3 (2) *UPDATING OF TRIBAL PLAN.—Each tribal*
4 *council referred to in subsection (a) may, on an an-*
5 *nual basis, revise the tribal plan prepared by that*
6 *tribal council to update the tribal plan. In revising*
7 *the tribal plan under this paragraph, the tribal coun-*
8 *cil shall provide the members of the tribe opportunity*
9 *to review and comment on any proposed revision to*
10 *the tribal plan.*

11 (3) *CONSULTATION.—In preparing the tribal*
12 *plan and any revisions to update the plan, each trib-*
13 *al council shall consult with the Secretary of the Inte-*
14 *rior and the Secretary of Health and Human Serv-*
15 *ices.*

16 (4) *ANNUAL REPORTS.—Each tribe shall submit*
17 *an annual report to the Secretary describing any ex-*
18 *penditures of funds withdrawn by that tribe under*
19 *this title.*

20 (d) *PROHIBITION ON PER CAPITA PAYMENTS.—No*
21 *portion of any payment made under this title may be dis-*
22 *tributed to any member of the Yankton Sioux Tribe or the*
23 *Santee Sioux Tribe of Nebraska on a per capita basis.*

1 **SEC. 107. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
2 **AND SERVICES.**

3 (a) *IN GENERAL.*—No payment made to the Yankton
4 Sioux Tribe or Santee Sioux Tribe pursuant to this title
5 shall result in the reduction or denial of any service or pro-
6 gram to which, pursuant to Federal law—

7 (1) *the Yankton Sioux Tribe or Santee Sioux*
8 *Tribe is otherwise entitled because of the status of the*
9 *tribe as a federally recognized Indian tribe; or*

10 (2) *any individual who is a member of a tribe*
11 *under paragraph (1) is entitled because of the status*
12 *of the individual as a member of the tribe.*

13 (b) *EXEMPTIONS FROM TAXATION.*—No payment
14 made pursuant to this title shall be subject to any Federal
15 or State income tax.

16 (c) *POWER RATES.*—No payment made pursuant to
17 this title shall affect Pick-Sloan Missouri River Basin
18 power rates.

19 **SEC. 108. STATUTORY CONSTRUCTION.**

20 *Nothing in this title may be construed as diminishing*
21 *or affecting any water right of an Indian tribe, except as*
22 *specifically provided in another provision of this title, any*
23 *treaty right that is in effect on the date of enactment of*
24 *this Act, or any authority of the Secretary of the Interior*
25 *or the head of any other Federal agency under a law in*
26 *effect on the date of enactment of this Act.*

1 **SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

2 *There are authorized to be appropriated such sums as*
 3 *are necessary to carry out this title, including such sums*
 4 *as may be necessary for the administration of the Yankton*
 5 *Sioux Tribe Development Trust Fund under section 104*
 6 *and the Santee Sioux Tribe Development Trust Fund under*
 7 *section 105.*

8 **SEC. 110. EXTINGUISHMENT OF CLAIMS.**

9 *Upon the deposit of funds under sections 104(b) and*
 10 *105(b), all monetary claims that the Yankton Sioux Tribe*
 11 *or the Santee Sioux Tribe of Nebraska has or may have*
 12 *against the United States for loss of value or use of land*
 13 *related to lands described in section 102(a)(10) resulting*
 14 *from the Fort Randall and Gavins Point projects of the*
 15 *Pick-Sloan Missouri River Basin program shall be extin-*
 16 *guished.*

17 **TITLE II—MARTIN’S COVE LAND**
 18 **TRANSFER**

19 **SEC. 201. SHORT TITLE.**

20 *This title may be cited as the “Martin’s Cove Land*
 21 *Transfer Act”.*

22 **SEC. 202. CONVEYANCE TO THE CORPORATION OF THE PRE-**
 23 **SIDING BISHOP.**

24 *(a) CONVEYANCE REQUIRED.—Notwithstanding the*
 25 *Federal Land Policy and Management Act of 1976 (43*
 26 *U.S.C. 1701 et seq.), the Secretary of the Interior (hereafter*

1 *in this section referred to as the “Secretary”) shall offer*
 2 *to convey to the Corporation of the Presiding Bishop, all*
 3 *right, title, and interest of the United States in and to the*
 4 *public lands identified for disposition on the map entitled*
 5 *“Martin’s Cove Land Transfer Act” numbered MC/0002,*
 6 *and dated May 17, 2002, for the purpose of public edu-*
 7 *cation, historic preservation, and the enhanced recreational*
 8 *enjoyment of the public. Such map shall be on file and*
 9 *available for public inspection in the offices of the Director*
 10 *of the Bureau of Land Management and the Lander Dis-*
 11 *trict of the Bureau of Land Management.*

12 *(b) CONSIDERATION.—*

13 *(1) IN GENERAL.—The Corporation of the Pre-*
 14 *siding Bishop shall pay to the United States an*
 15 *amount equal to the historic fair market value of the*
 16 *property conveyed under this section, including any*
 17 *improvements to that property.*

18 *(2) DETERMINATION OF FAIR MARKET VALUE.—*

19 *Not later than 90 days after the date of the enactment*
 20 *of this Act, the Secretary shall determine the historic*
 21 *fair market value of the property conveyed under this*
 22 *section, including any improvements to the property.*

23 *(c) ACCESS AGREEMENT.—Not later than 180 days*
 24 *after the date of the enactment of this Act, the Secretary*
 25 *and the Corporation of the Presiding Bishop shall enter into*

1 *an agreement, binding on any successor or assignee, that*
 2 *ensures that the property conveyed shall, consistent with the*
 3 *historic purposes of the site—*

4 (1) *be available in perpetuity for public edu-*
 5 *cation and historic preservation; and*

6 (2) *provide to the public, in perpetuity and*
 7 *without charge, access to the property conveyed.*

8 (d) *RIGHT OF FIRST REFUSAL.—As a condition of*
 9 *any conveyance under this section, the Secretary shall re-*
 10 *quire that the Church of Jesus Christ of Latter Day Saints*
 11 *and its current or future affiliated corporations grant the*
 12 *United States a right of first refusal to acquire all right,*
 13 *title, and interest in and to the property conveyed under*
 14 *this section, at historic fair market value, if the Church of*
 15 *Jesus Christ of Latter Day Saints or any of its current*
 16 *or future affiliated corporations seeks to dispose of any*
 17 *right, title, or interest in or to the property.*

18 (e) *DISPOSITION OF PROCEEDS.—Proceeds of this con-*
 19 *veyance shall be used exclusively by the National Historic*
 20 *Trails Interpretive Center Foundation, Inc., a nonprofit*
 21 *corporation located in Casper, Wyoming, for the sole pur-*
 22 *pose of advancing the public understanding and enjoyment*
 23 *of the National Historic Trails System in accordance with*
 24 *subsection (f).*

1 (f) *USE OF PROCEEDS.*—*Funds shall be used by the*
2 *Foundation only for the following purposes and according*
3 *to the following priority:*

4 (1) *To complete the construction of the exhibits*
5 *connected with the opening of the National Historic*
6 *Trails Center scheduled for August 2002.*

7 (2) *To maintain, acquire, and further enhance*
8 *the exhibits, artistic representations, historic artifacts,*
9 *and grounds of the Center.*

10 (g) *NO PRECEDENT SET.*—*this title does not set a*
11 *precedent for the resolution of land sales between or among*
12 *private entities and the United States.*

Amend the title so as to read “An Act to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands, and for other purposes.”.

Attest:

Clerk.